

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

JESSE DREWNIAK,)
Plaintiff,)
v.) Civil Action 1:20-cv-00852
U.S CUSTOMS AND BORDER PROTECTION,)
U.S. BORDER PATROL, MARK A. QUALTER,)
JEREMY FORKEY, AND ROBERT N. GARCIA,)
Defendants.)

)

DECLARATION OF ROBERT N. GARCIA

I, Robert N. Garcia, pursuant to 28 U.S.C. § 1746, depose and say:

1. I currently hold the position of Chief Patrol Agent, Swanton Sector, U.S. Border Patrol, United States Customs and Border Protection, Department of Homeland Security (CBP), and have served in this position since 2018. Prior to assuming this position, I served as Swanton Sector's Deputy Chief Patrol Agent from 2015 to 2018.
2. As Chief Patrol Agent, I am the senior-most management official who is responsible for planning, organizing, and directing U.S. Border Patrol enforcement operations within Swanton Sector's area of responsibility, which includes eight Border Patrol stations and 295 miles of U.S. and Canadian border in the states of New York, Vermont, and New Hampshire.
3. The Beecher Falls Border Patrol Station (Beecher Falls Station), which is under my oversight, is responsible for patrolling, and conducting enforcement activities in, the State of New Hampshire.
4. Within Swanton Sector, temporary immigration checkpoints are utilized to carry out the U.S. Border Patrol's operational mission of immigration enforcement. In general,

immigration checkpoints are strategically located to stop vehicles and individuals seeking to evade immigration law requirements traveling from the international land border to the interior of the United States. Checkpoints along the Northern Border are often located on interstate highways and roadways that serve as main thoroughfares from the U.S.-Canadian border to major cities in the interior such as Boston and New York City.

5. Typically, checkpoints include a primary inspection area and a secondary inspection area. Vehicles that enter the checkpoint are normally processed through the primary inspection area. In this area, occupants of a vehicle are asked brief questions about their immigration status and the vehicle may be subject to a free-air canine sniff by U.S. Border Patrol canines. U.S. Border Patrol canines also may conduct free-air sniffs of vehicles in the pre-primary area to help expedite the processing of vehicles through the checkpoint. All U.S. Border Patrol canines undergo rigorous training and receive certification as dual detection canines that are able to identify the presence of concealed humans and narcotics.

6. Only certain vehicles and individuals, however, will be selected to undergo a more thorough secondary inspection. Referral of a vehicle for secondary inspection generally occurs when Border Patrol Agents seek to conduct a full immigration inspection or for a potential violation of some other law (i.e., customs, narcotics, or other criminal violations). During a secondary inspection, Border Patrol Agents have the authority to: (a) ask questions; (b) request to inspect immigration documents; (c) make plain view observations; (d) conduct searches of a person or a vehicle; (e) perform exterior canine sniffs of a vehicle; (f) press down on trunk; (g) tap exterior fuel tanks; and/or (h) any other actions necessary to confirm or dispel violations of law.

7. The Beecher Falls Station has, on occasion, utilized immigration checkpoints as a tool to conduct the Agency's critical immigration enforcement mission in New Hampshire, a border state located along the U.S-Canadian international boundary. From 2012 to 2016, the Beecher Falls Station did not conduct any immigration checkpoints in New Hampshire due to manpower and budgetary constraints.

8. In 2017, after receiving the necessary funding and manpower, the Beecher Falls Station re-initiated the use of immigration checkpoints. In particular, two immigration checkpoints were conducted in Woodstock, New Hampshire from August 25-27, 2017, and September 26-28, 2017.

9. Prior to the commencement of the immigration checkpoints in 2017, an operation order was prepared detailing the Beecher Falls Station's planned enforcement activities. The operation order underwent legal sufficiency review by Agency counsel and was reviewed and approved by both U.S. Border Patrol management within Swanton Sector and U.S. Border Patrol Headquarters.

10. In September of 2017, however, local management at the Beecher Falls Station was notified by the New Hampshire State Police that they would no longer be providing direct support to U.S. Border Patrol immigration checkpoints. As a result, the New Hampshire State Police would only provide assistance in response to a request from U.S. Border Patrol for officer safety concerns, exigent circumstances, and/or potential violations of state law.

11. In 2018, the Beecher Falls Station conducted three immigration checkpoints in Woodstock, New Hampshire on the following dates: May 27-29, 2018; August 21-23, 2018; and September 25-27, 2018. During these checkpoints, state and local law enforcement only

provided assistance in response to specific requests from U.S. Border Patrol based upon officer safety concerns, exigent circumstances, and/or potential violations of state law.

12. In 2019, the Beecher Falls Stations conducted four immigration checkpoints. Two immigration checkpoints were conducted in Columbia, New Hampshire on April 7, 2019 and May 27, 2019. A third immigration checkpoint was conducted in Woodstock, New Hampshire from June 8-9, 2019. A fourth immigration checkpoint was conducted in Lebanon, New Hampshire, from September 3-6, 2019. During these checkpoints, state and local law enforcement only provided assistance in response to specific requests from U.S. Border Patrol based upon officer safety concerns, exigent circumstances, and/or potential violations of state law.

12. In 2020, the Beecher Falls Station has not conducted any immigration checkpoints in New Hampshire. To date, the Beecher Falls Station has no scheduled immigration checkpoints planned to occur in New Hampshire. The re-initiation of immigration checkpoints is contingent upon operational needs, manpower, and budgetary considerations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of November, 2020.



Robert N. Garcia
Chief Patrol Agent
U.S. Border Patrol
Swanton, Vermont